

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MIKESHA BLACKMAN, et al.,)	
Plaintiffs,)	
)	
vs.)	Civil Action No. 97-1629 (PLF)
)	<i>consolidated with</i>
DISTRICT OF COLUMBIA, et al.,)	Civil Action. No. 97-2402 (PLF)
Defendants.)	
)	

BACKLOG REDUCTION PLAN

With this filing, the parties provide the Court and the public notice of the Backlog Reduction Plan, a requirement of the agreement reached during the Alternative Dispute Resolution (ADR) process.

All of the provisions in the ADR agreement are designed, either directly or indirectly, to reduce: the *initial backlog*--overdue hearing officer decisions (HODs) and Settlement Agreements (SAs) issued before March 1, 2006, of which there are now approximately 60; and the *subsequent backlog*--overdue HODs and SAs issued on or after March 1, 2006, of which there are approximately 1000. Many provisions of the agreement seek to build needed instructional and service capacity within D.C.'s special education system, in order to address underlying causes of the high number of HODs and SAs generated in D.C. The Backlog Reduction Plan, by contrast, specifically addresses the implementation of HODs and SAs. It also creates what the parties hope will be a robust capacity to secure early resolution of due process complaints before they become HODs or SAs.

The parties will meet regularly to review implementation of, and progress made under the

plan, and to agree on adjustments to staffing, resource allocation, and strategy as necessary. In their review, the parties will use, among other things, information obtained from the plaintiff special education bar and from Special Master Elise Baach.

The Backlog Reduction Plan has four core elements:

1. Klemm Analysis Group providing data, logistical, and other support to efforts by DCPS and OSSE to accelerate the implementation of HODs and SAs and to secure early resolution of due process complaints. (Dr. Rebecca Klemm will take a leave of absence from the Evaluation Team while Klemm Analysis group is performing this function.)
2. Reforming DCPS policies to facilitate implementation of HODs and SAs.
3. Increasing related service capacity.
4. Increasing cooperation with parent representatives and charter and non-public schools.

These elements reflect the District's desire to address short-term compliance while simultaneously building structures and systems that will support sustained compliance as well as high-quality, consistent service delivery to students.

The Plan elements are described below. The Plan references two documents that are attached: a Chancellor's authorization letter and federal guidance concerning IEP meetings. Also attached are two appendices: a summary of anticipated plan activities and tentative deadlines and information on roles and responsibilities.

Richard Nyankori of DCPS and Tameria Lewis of OSSE will oversee implementation of the plan. Dr. Nyankori is charged with backlog reduction efforts in DCPS schools. Ms. Lewis will oversee backlog reduction efforts in charter and non-public schools.¹ Both Dr. Nyankori

¹ Authority over the Nonpublic Unit, responsible for managing the special education of students in non-public schools, currently resides with DCPS. However, authority will be transferred to OSSE in the future. During this transition period, Dr. Nyankori and Ms. Lewis will collaborate to ensure effective implementation of the Backlog Reduction Plan with

and Ms. Lewis have been given authority from their respective agency heads to fully execute this plan.

I. Reliance on Klemm Analysis Group.

By January 17, 2008, D.C. will contract with Klemm Analysis group (KAG) to perform several tasks in conjunction with DCPS/OSSE related to addressing due process complaints and implementation of HODs and SAs.² During the period that KAG is performing this work, anticipated to be one year, Dr. Klemm will take a leave of absence from the Evaluation Team. The parties have agreed that plaintiffs, the Monitor, and the Evaluation Team will have the same access to Dr. Klemm and KAG staff as they had while Dr. Klemm was a member of the Evaluation team.

A. Dashboards.

Since November 2006, KAG has been collecting and analyzing due process complaints and open HODs via a computer database. Dr. Klemm will use this database to generate "dashboards" (task lists) that will identify, for each student, the specific tasks that must be undertaken to implement the student's HOD and the due date for the task. Dashboards will be distributed on a weekly basis to school-based special education coordinators with information on each student for whom the coordinator is responsible. To date, defendants have lacked an effective system for providing such information to the coordinators.

In addition to providing coordinators dashboards/task lists organized by student, KAG will generate task lists for the Office of General Counsel (OGC) and KAG identifying tasks that

respect to nonpublic students.

² For simplicity's sake, this Plan will hereinafter refer to HODs and SAs simply as HODs.

are outside the province of school-based personnel, such as securing an evaluation, securing compensatory education, and paying attorneys fees, as well as due dates.

Information provided in dashboards can and will be aggregated to show school-level, cluster-level,³ or OGC-level "views," for management and other purposes.

KAG and OSE are training special education coordinators and their supervisors in using the dashboards. After the training, the dashboards will begin to be used in DCPS schools. Implementation will begin with schools that generate the most HODs and by early March dashboards will be used in all schools.⁴ DCPS will create performance expectations for each DCPS school, which will be adjusted based on experience.

The parties have not yet agreed on the elements of a Backlog Reduction Plan for students in charter and non-public schools. The substance of the plan will be developed in collaboration with the charter and non-public schools themselves, as well as the District of Columbia Association for Special Education (DCASE) comprised of charter and non-public schools. The parties expect that by March 2008 KAG will produce dashboards for students in charter schools and non-public schools. The parties also expect that OSSE will assign staff known as "disposition specialists" (there are four currently) to help accelerate implementation of HODs of charter and non-public school students.⁵

³ A "cluster" is an administrative grouping of schools in DCPS. Clusters 1, 2 and 3 are elementary schools. Cluster 4 consists of middle schools and junior high schools. Clusters 5 and 6 are primarily high schools. Each Special Education Coordinator Supervisor (SECS) is assigned to a cluster.

⁴ Particular schools with exemplary performance may be exempted from participating in the dashboard system.

OSSE will develop policy and/or agreements that ensure that HODs are timely implemented in charter and nonpublic schools, and will track implementation of the policy and/or agreements. If it is determined that OSSE lacks the authority to promulgate such policy or secure such agreements, OSSE will seek legislative and/or judicial solutions for securing such authority. OSSE may require by policy and/or agreement that charter and non-public schools with overdue HODs develop corrective action plans and be subject to monitoring by OSSE. As appropriate, OSSE would provide technical assistance in developing and implementing such corrective action plans, such as logistical support from KAG.

B. DCPS Schools: Dashboards in Practice.

All DCPS schools with open HODs will receive updated weekly dashboards. On Wednesday of each week, special education coordinators will receive by email updated dashboards for students in their schools. Coordinators will acknowledge receipt of the dashboards within 24 hours. A coordinator who fails to respond in 24 hours will be contacted by the responsible Special Education Coordinator Supervisor (SECS) to ensure receipt.

The coordinator will have by Tuesday of the following week to submit updates and supporting documentation that tasks due are completed. The SECS will review submitted documentation for accuracy and completeness. By April 1, 2008, there will be written protocols and guidelines for the SECS review. It is defendant's intention is to build these guidelines through an iterative process of reviewing and analyzing submitted documentation and understanding what constitutes sufficient documentation. This process will involve KAG,

⁵ The District anticipates using compliance specialists (CS) and disposition specialists (DS) in the short term to carry out plan activities. A decision concerning continued use of CS and DS will be made in March or April. OSSE and DCPS will decide whether to continue with CS and DS or create new positions to better meet plan objectives.

OSSE, and Dr. Nyankori reviewing submitted documentation during January-March.

After their review, the SECSs will submit an information and documentation "packet" to DCPS Office of Special Education compliance specialists for an additional review. If information in the packet is satisfactory, it will be transmitted to KAG, which will use it to update the "Klemm database."⁶ If information is incomplete or insufficient, the compliance specialists will contact the special education coordinator and seek additional information and documentation.

The SECSs will be responsible for tracking deadlines of the coordinators in their caseloads. Beginning mid February 2008, and every two weeks thereafter, the Director of Special Education and Dr. Nyankori will meet with SECSs and compliance specialists to review progress.

Beginning February 1, 2008, KAG will submit monthly reports of compliance with internal deadlines and of Jones requirements to principals, cluster instructional superintendents, the chancellor, and the state superintendent, as well as plaintiffs and the Evaluation Team. Beginning in March the Director of Special Education and Dr. Nyankori will hold 30-minute conference calls with cluster instructional superintendents to review the reports. The goal of the calls will be to maintain a sense of urgency, ensure that cluster instructional superintendents are aware of their compliance numbers, better understand school-level issues that may be impeding progress, and discuss steps that can be taken with principals to assist in meeting deadlines.

⁶ The parties have agreed to use the Klemm database to measure compliance with the Consent Decree's annual "June 30" requirements.

C. Response Team.

By early February 2008, DCPS and KAG will create a "Response Team" to work intensely with schools that are not meeting performance expectations. The team will help assess and correct the reasons for non-performance and, as appropriate, will provide additional personnel to help in implementing HODs.

D. Due Process Complaint Resolution.

Beginning February 1, 2008, KAG will receive copies of all due process complaints and will work with the DCPS Office of General Counsel (OGC) and the DC Office of Attorney General (OAG) to quickly resolve complaints. The focus will be on the majority of complaints that do not present "high-stakes" issues such as a private placement, but instead seek relatively modest action such as an evaluation.

KAG and OGC/OAG are in the process of working out the amount of authority that will be delegated to KAG. It is anticipated that complaints that involve placement and attorney's fees issues will be immediately assigned to an OGC attorney, who may work with KAG to seek a resolution. KAG will be given authority to resolve complaints that seek relatively modest action on DCPS's part without OGC consultation, including agreeing to an evaluation, compensatory education, scheduling a meeting, and securing a service agreement, as further described below.

E. Implementing HODs.

KAG will be authorized to undertake a variety of actions to secure implementation of HODs. KAG will also have authority to agree to these actions to resolve a due process complaint that has not yet become an HOD (*e.g.*, before a hearing on the complaint).

Upon receiving a complaint or beginning work on an HOD, KAG will give written notice

to the parent's representative of KAG's role and the support and assistance KAG can provide. Defendants will reach agreement with plaintiffs on the content of the notice.

KAG will be authorized to make payments up to \$5,000 without prior approval. Defendants will establish guidelines for payments by KAG and an approval process for payments exceeding \$5,000.

KAG will pay only items for which KAG directly receives an invoice. KAG will coordinate with DCPS's billing unit to avoid double payments. Among other things, KAG will check with the billing unit before making a payment and KAG will send the billing unit documentation that a payment has been made. DCPS will designate an individual within the billing unit as KAG's primary point of contact.

In its work, including making payments, KAG will comply with the Court's orders in *Petties*.

1. Order, Pay, and Make Arrangements for Evaluations.

KAG will use Columbus or an evaluator of the parent's choice to conduct an evaluation. KAG will be authorized to reimburse related expenses (*e.g.*, local travel expenses, child care) in connection with the evaluation.

KAG will arrange for DCPS assessments and offer to parent representatives to arrange and pay for independent assessments.

If a complaint or HOD involves an evaluation, KAG will: determine if an evaluation has been done (by checking the legal access folder and with DCPS related service supervisors, Columbus, and, by fax, the parent representative) and, if none is produced, KAG will assume there is none. If an assessment is found, KAG will check with the parent representative to see if

it is adequate. If the parent representative says it is not adequate, KAG will get the assessment conducted. (There may be some exceptions, for example, where there is a request for an eligibility determination shortly after both DCPS and an independent evaluation has determined the child is not eligible.) If there is a question about the nature or scope of the assessment sought, KAG will clarify with the parent representative, by fax, what the parent is seeking.

As needed, KAG will provide written authorization -- that an evaluator can take to a school -- for the evaluator to gain entry to the school and school records. The written authorization will identify a number to call if questions or issues arise.

2. Schedule a Meeting.

KAG will facilitate the scheduling of MDT and IEP meetings, including facilitating DCPS and parent's counsel reaching agreement on who should attend the meeting. Additionally, KAG will have authority to compel government employees to be at a meeting per a Chancellor's letter, attached as Exhibit 1. KAG will track meeting cancellations and the reasons for cancellations.

If a complaint or HOD seeks a meeting, KAG will determine who needs to be at the meeting, including by consulting with the parent representative, and get the meeting scheduled.

It is anticipated that schools will have standard "meeting days." Efforts will be made to arrange meetings at times convenient for parents. Child care may be offered at the school or nearby on "meeting days."

3. Make Payments.

Some HODs require specific payments to particular providers. KAG will be authorized to make these payments, consistent with the payment authority described above.

4. Service Agreements.

KAG will have authority to enter into service agreements on behalf of DCPS, for necessary services (*e.g.*, tutoring, assistive technology, mental health services), consistent with the payment authority described above.

If it is unclear what service(s) the parent desires, KAG will contact the parent representative and clarify the matter.

When a complaint seeks a service agreement, KAG will have the authority to negotiate directly with parent representatives concerning the matter.

5. Compensatory Education.

KAG will have authority to enter into agreements on DCPS's behalf regarding compensatory education. KAG will address compensatory education awards directly with parents and their representatives, with input from schools and the Office of Special Education. Defendants will relieve KAG of any obligation to follow current DCPS policy on compensatory education awards while, as described below, new policy is developed.

F. Analysis of Barriers.

KAG will track and document matters that impede timely resolution of due process complaints and implementation of HODs. For example, KAG will track and document same day cancellation of IEP and MDT meetings and also the reasons for complaints regarding students in non-public placements. This information will be utilized by DCPS and OSSE to aid in Blackman/Jones compliance, including additional revisions to policy and procedure that may be necessary.

G. Initial Backlog Cases.

Defendants' understanding is that most of the remaining IBL HODs (pre-March 1, 2006 HODs) involve children no longer in the D.C. school system and whose special education is no longer the responsibility of D.C. By January 30, 2008, KAG will review and report on the actions required to implement or administratively close the HODs remaining in the IBL and the barriers to their implementation; and recommend actions that will secure implementation or closure of these HODs. Beginning early February 2008, KAG, DCPS and OSSE will begin an intensive effort to implement or administratively close the remaining IBL cases. KAG will assign a full time person to this effort or enlist a subcontractor to assist with completion. Defendants hope to eliminate the IBL by June 2008.

II. Reforming DCPS Policies.

A. Legal Access Folders (*a.k.a.* Special Education Folder).

DCPS and OSSE will issue a joint policy on maintenance of the Legal Access Folder (LAF) including its layout and component parts. This policy will be based on the recommendations of the independent LAF workgroup.⁷ It is anticipated that the special education coordinator will have the primary responsibility for ensuring that the LAFs meet the specifications in the policy.

Additionally, DCPS will consider adopting FileNet, to assist in management of LAF documents. FileNet is a digital file management system currently being used to maintain DCPS's human resource files.

⁷ The LAF Workgroup is comprised of eight mid-level managers of federal agencies who are undertaking a seven month service project to study DCPS's LAF record-keeping and recommend improvements.

By May 2008, KAG will conduct an audit to ensure that all Legal Access Folders are physically located in the appropriate school. In cases where the LAF cannot be located, but the student attends a DCPS school, DCPS will attempt to rebuild the folder. It is anticipated that the audit will occur before the issuance of a new policy. The audit is intended to address the basic issue of where files are physically located.

B. Rates Paid for Evaluations.

DCPS Superintendent's Directive No. 530.6, 3/22/02 establishes a payment schedule for reimbursing independent evaluations. Beginning January 15, DCPS will suspend Superintendent's Directive No. 530.6 to the following extent: KAG and DCPS will be permitted to pay reasonable costs for independent evaluations ordered as part of an HOD/SA or needed to resolve a due process complaint. KAG and DCPS will track payments for independent evaluations to inform new rates that will be included in a revision to Superintendent's Directive No. 530.6.

In addition to tracking KAG payments, DCPS will research prevailing local rates including for evaluations not currently listed in Directive No. 530.6. DCPS will consult with plaintiffs, *Petties* counsel, Special Master Elise Baach, and members of the plaintiff special education bar in developing a new rate policy.

By May 2008, DCPS and OSSE will issue a new policy on rates that will replace Superintendent's Directive No. 530.6 and include a process for updating rates in the future.

C. Policy on IEP Teams and Multi-Disciplinary Teams.

By April 7, 2008, OSSE and DCPS, in collaboration with plaintiffs and the plaintiff special education bar, will issue joint guidance on IEP teams and Multi-Disciplinary Teams,

including their purpose and function, membership of the teams, and participation in team meetings. The policy will cover DCPS, charter, and non-public schools. By June 6, 2008, DCPS and charter schools will receive live and/or online training on the guidance.

In the interim, KAG will use Exhibit 2 (federal guidance on IEP meetings) to this Plan to guide KAG's work in facilitating meetings and reaching agreement with parent representatives concerning meeting composition and participation.

In preparing this plan, the parties determined that DCPS may be differentiating between MDT and IEP meetings in an inaccurate and/or inefficient way. DCPS will begin, by mid-January, to phase out use of any inaccurate or inefficient terminology and practices. Forms will be altered accordingly.

D. Determination and Implementation of (Non-Blackman/Jones) Compensatory Education.

Currently, the District DCPS follows a formulaic policy with respect to determining non-Blackman/Jones (non-BJ) compensatory education. By May 9, 2008, the District will develop a new policy for awarding non-BJ compensatory education awards that is consistent with the *Reid* decision, which posits that a compensatory education award "must be reasonably calculated to provide the educational benefits that likely would have accrued from special education services the school district should have supplied in the first place." *Reid*, 401 F.3d at 524. Such awards are to be based on "a fact-specific" inquiry rather than a formulaic response (e.g., a one-for-one or hour-for-hour remedy). Dr. Nyankori and Ms. Lewis will consult with plaintiffs and the plaintiff special education bar in developing the policy. DCPS and SHO personnel will be provided training on the new policy by July 8, 2008.

It is anticipated that defendants' new policy on non-BJ compensatory education will: use

expert and/or practitioner recommendations to inform award decisions; take account of whether and how quickly proposed compensatory education will produce an educational benefit; and will emphasize reaching agreement with parent's representatives.

OSSE will ensure that Hearing Officers receive training on determining compensatory education awards consistent with *Reid*. Hearing Officers will be encouraged to decide compensatory education awards as a component of the HOD rather than sending the issue back to the IEP team to resolve.

By February 1, 2008, existing policies will be declared inapplicable to any determination of non-BJ compensatory education required to implement an HOD.

E. Immediate Receipt of Services Policy.

The District has an interest in ensuring that students already identified as eligible for special education timely receive needed related services that may not have been included in an IEP. By mid-March 2008, DCPS will adopt a policy providing that, when DCPS and parents agree that a service is needed (*e.g.* a learning disabled student needs mental health services), the student can be referred for the service and the service included on the IEP, without need for further evaluation and even if the service does not address the "disability classification" that is the basis for special education eligibility. The service provider will conduct such additional evaluations as may be needed to render the service.

In the interim, KAG will have authority to agree with parent representatives on services to implement an HOD or resolve a complaint, without need for a formal or outside evaluation.

F. Timeline for Referral, Evaluation, and IEP.

The District plans to revise current policies governing timelines for referral, evaluation,

and placement. One purpose is to harmonize current policies with federal law. Another is to improve the responsiveness of the special education system.

By March 1, 2008, KAG will complete an analysis of the impact of reducing timelines (including timelines similar to those in *Mills*) including possible effects on increasing the number of overdue IEPs and assessments. Using this analysis and other information, DCPS and OSSE will, by May 1, 2008, revise current policy with an aim to reducing timelines, as well as identify policies and procedures to support implementation of the new policy.

Additionally, starting mid-January 2008, DCPS and OSSE will take steps to ensure that copies of assessments and evaluations are provided to parents or their attorneys at least seven working days before scheduled IEP and MDT meetings. If an assessment or evaluation has not been completed by seven working days before the hearing, the assessment or evaluation will be provided to parents or representatives within two days after completion.

G. Clarification of Responsibility for Implementation of HODs.

A substantial number of unimplemented HODs involve students currently attending a different school and/or LEA different than the one where the complaint originated. There exists confusion in this situation over who is responsible for implementing the terms of HOD. Also, considerable logistical difficulties arise in coordinating timely resolution of these cases. OSSE will review this issue and adopt policies and procedures to clarify responsibility for implementing HODs in such cases and that will, as appropriate, address logistical issues.

III. Increasing Related Service Capacity.

An adequate supply of high quality related service providers (including independent evaluators) is critical to the success of this Plan. The parties suspect that DCPS is too limited in

its related service provider capacity; however, no definitive study of the matter is available. The lack of capacity may contribute to delays in evaluations, related services, and IEP development.

By May 16, 2008, OSSE and DCPS will investigate and issue a report on DCPS's capacity to provide related services including evaluations and make recommendations for increasing capacity where necessary. The contractor for the study and the study design must be agreeable to plaintiffs. If KAG is not the contractor, KAG will provide the contractor with relevant information developed in the course of KAG's work. KAG's work will provide insight into whether any current "capacity" problem reflects the unavailability of providers or that the rates paid to providers are too low.

As feasible, DCPS will implement interim strategies to ensure access to related service providers adequate to support successful implementation of this Plan. One strategy has already been identified, as reported above. KAG will be authorized to pay rates higher than the ceilings in DCPS Superintendent's Directive No. 530.6.

Additionally, the parties will agree on revisions, as appropriate, to current arrangements for the provision of nursing services in the schools.

IV. Increase Cooperation with Parent Representatives and Charter and Non-Public Schools.

As noted above, the parties have not yet agreed on the elements of a Backlog Reduction Plan for students in charter and non-public schools. The substance of the plan will be developed in collaboration with the charter and non-public schools themselves, as well as the District of Columbia Association for Special Education (DCASE) comprised of charter and non-public schools.

A. KAG's Work.

KAG will strive to work with parent representatives in a more collaborative, more respectful, and less adversarial fashion than has characterized past relations.

When it is unclear to KAG from the complaint or HOD what specific action is requested or required, KAG will facilitate reaching agreement with the parent's representative about the matter. If agreement cannot be reached on an action required by an HOD, KAG, with OGC participation as appropriate, will ask the hearing officer to clarify the HOD.

Sometimes implementation of an HOD is delayed because DCPS (understandably or due to its own fault) lacks certain information concerning the child. In these cases, KAG will make a written request to the parent's representative for the information. If KAG needs information concerning the student's current school setting, KAG will check available sources of information, including information that Transportation Receiver Gilmore may have, as well as seek information from the parent representative.

The parties expect that by March 2008 KAG will produce dashboards for students in charter schools and non-public schools.

B. Facilitating Dialogue.

OSSE and DCPS have begun several activities to facilitate dialogue between the government and both the plaintiff special education bar and charter and non-public school providers. The District realizes that the special education bar and the non-DCPS schools possess insights that can inform long-term systemic improvement and also have suggestions for short-term improvement. The parties believe that strengthening the relationship between the government and these groups is important to the success of this Plan and special education

reform generally.

Beginning in January 2008, Dr. Nyankori and Ms. Lewis will hold regular meetings, along with DCPS and OSSE Directors of Special Education, with the District of Columbia Association for Special Education (DCASE), comprised of charter and non-public schools. A regular meeting schedule and tentative agendas will be developed. Also, Dr. Nyankori, Ms. Lewis, and the Directors of Special Education will attend, by invitation, the regular meetings of the special education bar's monthly roundtable. The goal of these meetings is to identify opportunities for collaboration on projects and issues in which these groups have an interest.

C. Hotline.

By mid February, 2008, OSSE and DCPS will each set up a "hotline" available to parent representatives and charter and non-public school representatives to raise and seek resolution of urgent matters. The hotline will be managed by high-level staff with the authority to quickly resolve problems and order actions.

V. ATTACHMENTS.

Appendix A: Summary of Anticipated Plan Activities and Tentative Deadlines.

Appendix B: Definitions, Roles, and Abbreviations.

Exhibit 1: Chancellor's Authorization Letter.

Exhibit 2: IDEA IEP Team Meeting Provisions.

Dated: January 18, 2008.

Respectfully submitted,

/s/ Ira A. Burnim

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APPENDIX A: SUMMARY OF ANTICIPATED PLAN ACTIVITIES AND TENTATIVE DEADLINES

Plan Area	Plan Ref	Activity	Deadline	Primary Owner	Deliverable
Create Dashboard	I.	Initiate Klemm Contract	1/15/2008	Richard Nyankori	Signed Contract
Create Dashboard	I.A	Create Interim Tracking System	1/4/2008	KAG	Functional Access database
Create Dashboard	I.A	Create initial set of student-level dashboards for DCPS schools	1/11/2008	KAG	Initial set of student-level dashboards (DCPS)
Create Dashboard	I.A	Train SECs and SECSs in closure protocols	1/15/2008	KAG	Training Agenda/Attendance/Post-Training Survey
Create Dashboard	I. A	Create initial set of student-level dashboards for Charter and Non-public schools	3/7/2008	KAG	Initial set of student-level dashboards (OSSE)
Create Dashboard	I.A	Train Disposition specialists in closure protocols	3/21/2007	KAG	Training Agenda/Attendance/Post-Training Survey
Create Dashboard	I.A	OSSE develop a system/policy for interacting directly with all charters and non-public schools to close HODs/SAs	5/2/2008	OSSE SERT	Policy statement
Create Dashboard	I.A	DCPS schools begin receiving weekly updated dashboards	2/4/2008	KAG	Weekly updated dashboards/ Confirmation Emails
Update Dashboard	I.B	Establish final documentation guidelines and protocols for satisfaction of HOD/SA provisions	4/1/2008	DCPS/OSSE SERT	Final protocols and guidelines
Update Dashboard	I.B	Start Bi-Weekly progress meetings with SECSs and CSS	2/18/2008	Phyllis Harris	Sign-in Sheets/Agendas/Meeting Notes

Update Dashboard	I.B	Start 30-minute conference calls with cluster instructional superintendents	2/29/2008	Phyllis Harris	Agendas/Meeting Notes
Complaint Resolution	I.C	Create rapid response team	2/1/2008	DCPS SERT	Response team roster and guidelines for usage
Complaint Resolution	I.D	KAG will receive due process complaints for immediate KAG action or assignment to OGC/OAG attorneys.	2/1/2008	KAG	100% of incoming complaints are triaged
Complaint Resolution	I.E	Establish broad guidelines for all payments made by KAG and an approval process for payments exceeding \$5K	2/4/2008	DCPS SERT	Payment guidelines
Outstanding Jones IBL	I.G	KAG will review and report on action required by the HODs remaining in the Jones IBL and the barriers to implementation	1/30/2008	KAG	Report on outstanding Jones IBL cases
Outstanding Jones IBL	I.G	Begin intensive effort to clear Jones IBL	2/4/2008	KAG	Reports on IBL closure
Outstanding Jones IBL	I.G	Jones IBL fully eliminated	6/6/2008	KAG	Final Jones IBL Closure Report
Legal Access Folders	II.A	Policy on LAF transport, organization, and management complete	3/1/2008	DCPS/OSSE SERT	Approved Policy
Legal Access Folders	II.A	DCPS begins implementation of LAF policy	9/26/2008	DCPS SERT	Monitoring reports
Legal Access Folders	II.A	DCPS is fully compliant with LAF policy	6/1/2009	DCPS SERT	Internal audit report from DCPS Deputy Chief of Staff for Accountability
Legal Access Folders	II.A	Determination of FileNet feasibility	3/3/2008	Richard Nyankori	Feasibility statement

Legal Access Folders	II.A	LAF audit complete	5/1/2008	KAG	LAF Audit Report
Policy Revisions	II.B	Suspension of Directive No. 530.6	1/15/2008	DCPS and OGC	Issue notice of suspension
Policy Revisions	II.B	DCPS to issue updated directive establishing pay rates for independent evaluations	5/1/2008	DCPS SERT	Approved directive
Policy Revisions	II.C	Issue guidance on IEP Team Meeting composition	4/7/2008	DCPS/OSSE SERT	Guidance document
Policy Revisions	II.C	Complete training of necessary staff on IEP Team meeting guidance	6/6/2008	DCPS/OSSE SERT	Training/Post Training Survey
Policy Revisions	II.C	Phase out MDT terminology	3/4/2008	DCPS SERT	
Policy Revisions	II.C	Rewrite forms that contain MDT terminology	4/4/2008	DCPS SERT	Revised IEP forms
Policy Revisions	II.D	DCPS and OSSE will develop a policy for awarding compensatory education	3/7/2008	DCPS/OSSE SERT	Approved policy
Policy Revisions	II.D	Develop and promulgate a policy for DCPS and Charter schools for comp. ed.	5/9/2008	DCPS/OSSE SERT	Policy Statement
Policy Revisions	II.D	Train necessary staff in new comp. ed. Policy	7/9/2008	DCPS/OSSE SERT	Training/Post Training Survey
Policy Revisions	II.D	Suspend current non-BJ comp. ed. Policy and implement "fact-based" approach pilot	2/1/2008	DCPS/OSSE SERT	Monitor Compensatory Education "Fact-Based" Pilot
Policy Revisions	II.E	Issue "immediate receipt" of services policy	3/14/2008	DCPS/OSSE SERT	Approved policy
Policy Revisions	II.F	Complete impact analysis of changing current timeline policy to <i>Mills</i> standards	2/18/2008	KAG	Timeline Impact Report

Policy Revisions	II.F	Issue revised Referral-Evaluation-IEP timeline policy	8/11/2008	OSSE SERT	Approved policy
Policy Revisions	II.F	Ensure copies of assessments and evaluations are provided to parents or attorney 7 days before scheduled meeting	1/15/2008	DCPS/OSSE SERT	
Related Service Capacity	III	Issue report on related service provider and evaluator capacity	5/16/2008	Contractor	Related Service Provider Capacity Report
Related Service Capacity	III	Implement recommendations generated from related service provider capacity report	1/5/2009	DCPS/OSSE SERT	Status report on related service provider report recommendations
Sped Bar/DCASE	IV.A	Determine long-term agenda and meeting schedule with DCASE	1/30/2008	Plan Executives	
Sped Bar/DCASE	IV.A	Attend by invitation SPED Bar monthly roundtables	1/30/2008	Plan Executives	
Sped Bar/DCASE	IV.C	Set up OSSE and DCPS hotlines for Sped. Bar	1/15/2008	Plan Executives	Send email with contact info and expectations for use
Reporting/Monitoring		Begin generating internal monitoring reports	2/5/2009	KAG	Reports listed in Table 3, Appendix C.
Reporting/Monitoring		Backlog Reduction Plan status meeting	7/1/2008	DCPS/OSSE SERT	

APPENDIX B: DEFINITIONS, ROLES, AND ABBREVIATIONS

Abbreviation	Position	Name	Related Responsibility
	Chancellor (DCPS)	Michelle Rhee	CEO of school system Participates in monthly status conference calls
	Charter School	Any former DCPS BOE charter or PCSB charter	Implement HODs/SAs in charter schools Under authority of OSSE DCPS still provides some assistance to former BOE charters
	Cluster Instructional Superintendent (DCPS)	Cluster I: Barbara Adderley (elem) Cluster II: Clara Canty (elem) Cluster III: Francisco Millet (elem) Cluster IV: Bill Wilhoyte (MS) Cluster V: Reggie Ballard (HS) Cluster VI: Patricia Tucker (HS)	Assist principals with HOD/SA Closure Ensure timely IEPs and Assessments Direct supervision of principals Participate in monthly status conference calls
	Case Manager (DCPS & Charter)	TBD	Position created in ADR agreement Will assist with ensuring students receive timely high quality services
	Columbus (Primarily Charter and NPS)	Primary Contact: Tami Lewis Vielka Scott Dan Mooney	Provides independent assessments to Charter, NPS, and DCPS schools Will be used more heavily during KAG's complaint and HOD/SA implementation activities
	Compliance Specialist (DCPS)		Will receive and audit closure materials from SECS and transmit closure materials to KAG

Abbreviation	Position	Name	Related Responsibility
DCPS SERT	District of Columbia Public School Special Education Reform Team	Richard Nyankori, Lead Neela Rathinasamy, Proj. Mgr. 6 Proj. Mrgs. to be hired	Serves a resource and project management to OSE for this plan and other projects in the ADR agreement Leads district wide special education reforms in conjunction with Direct of Special Education
	Deputy Chief of Staff for Accountability (DCPS)	Sharon Artis	Manages DCPS compliance and internal investigations. Will conduct LAF audit for 2009 target
DS LDS	Disposition Specialists Lead Disposition Specialist	K. Blythe	Will receive and audit closure materials from charter and NPS and transmit closure materials to KAG LDS will serve
	Director of Special Education (DCPS)	Phyllis Harris	Heads OSE Implements various aspects of this plan in collaboration with DCPS SERT
	Director of Special Education (State)	Peggy McLeod	Responsible for SEA special education functions Implements OSSE SERT recommendations
IEP Team	Individualized Education Plan Team		Responsible for determining initial eligibility, writing the plan, and monitoring IEP consistent with local and federal laws
LAF	Legal Access Folder/ Special Education Folder		Contains a student's special education related documentation
LEA	Local Education Agency		DCPS and some charters that choose to be their own LEAs Primary support for students with disabilities

Abbreviation	Position	Name	Related Responsibility
MRU	Medicaid Recovery Unit	Dasarath Kiridena	Process Encounter Tracker forms Leads high-level strategy for increasing revenue from Medicaid
OSE	Office of Special Education (DCPS)		Responsible for the overall management, vision, and care of students with IEPs, specialized educational programs, IDEA compliance
OSSE SERT	Office of State Superintendent of Education Special Education Reform Team	Tami Lewis, Lead Edith Coakley, Spec. Asst. Liz Morse, Spec. Asst. Charity Hallman, Spec. Asst.	Serves a resource and project management to OSSE for this plan and other projects in the ADR agreement Leads statewide special education reforms
NPS	Non-Public School	4 Project Managers to be Hired	
SEA	State Education Agency		
SECS	Special Education Coordinator (DCPS)		Responsible for managing school level special education functions Responsible for preparing HOD/SA closure documentation
SECS	Special Education Coordinator Supervisor (DCPS)	Cluster I: (elem) Cluster II: (elem) Cluster III: (elem) Cluster IV: (MS) Cluster V: (HS) Cluster VI: (HS)	Supervise SECS Reviews and Transmits HOD/SA closure materials to CS Participates in bi-weekly meetings to monitor closure
	State Superintendent of Education	Deborah Gist	Leads state level activities Participates in monthly status conference calls

Abbreviation	Position	Name	Related Responsibility
OCFO	Office of Chief Financial Officer	Primary Contact: Heather McCabe	
OCTO	Office of Chief Technology Officer	Primary Contact: Vivek Kundra	Provides necessary ENCORE reports
OGC	Office of General Counsel (DCPS)	Primary Contact: Jim Sandman	
OAG	Office of the Attorney General	Primary Contact: Peter Nickels	Collaborates with DCPS/OSSE SERT teams

EXHIBIT 1: CHANCELLOR'S AUTHORIZATION LETTER



DISTRICT OF COLUMBIA PUBLIC SCHOOLS

OFFICE OF THE CHANCELLOR
825 North Capitol Street, NE, 9TH Floor
Washington, D.C., 20002-1994
(202) 442-5885 – fax: (202) 442-5026

MEMORANDUM

TO: Principals

FROM: _____
Michelle Rhee,
Chancellor

Richard Nyankori,
Blackman Jones Strategy & Enforcement

RE: Assistance with HOD/SA Closure and other Special Education Matters

CC: Special Education Coordinators
Instructional Superintendents

This memo will serve as notice that you are to fully comply with the directives given by Dr. Rebecca Klemm or her staff in the resolution of current and outstanding Hearing Officer Decisions (HODs) and Settlement Agreements (SAs).

You are to allow Dr. Klemm or her staff to:

1. Enter your building during normal business hours and after hours when previously arranged.
2. Access legal access folders, cumulative records, and health records.
3. Transport records from the school by signing out records.
4. Direct special education coordinators as necessary to complete tasks related to HOD/SA closure.
5. Allow independent evaluators to enter the building to conduct educational and mental evaluations pursuant to a current IEP, due process complaint, and/or HOD/SA

Additionally, you must comply within 1-business day of any request of Dr. Klemm to

Be present at meeting

Assign a staff member to be present at a meeting in your place

Assign other staff members to be a meeting

Direct staff members to complete IEPs, Evaluation reports, and other special education related paperwork.

Other assignments as necessary to serve students with disabilities.

If you have any questions concerning Dr. Klemm's work please contact Richard Nyankori at richard.nyankori@dc.gov. Failure to comply with a request from Dr. Klemm or Dr. Nyankori will result in the following progressive actions: (1) oral reminder, (2) written reminder/reprimand, (3) suspension from duty, and (4) progressive adverse actions (including loss of pay and termination).

EXHIBIT 2: IDEA IEP TEAM MEETING PROVISIONS

SOURCE: www.ed.gov

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the Act became effective on July 1, 2005, with the exception of some of the elements pertaining to the definition of a "highly qualified teacher" that took effect upon the signing of the Act. The final regulations were published on August 14, 2006. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education that covers a variety of high-interest topics and brings together the regulatory requirements related to those topics to support constituents in preparing to implement the new regulations. This document addresses significant changes in final regulatory requirements from preexisting regulations regarding IEP Team meetings and changes to the IEP.

IDEA Regulations

1. Identifies the members of the IEP Team.

The public agency must ensure that the IEP Team for each child with a disability includes:

- The parents of the child;
- Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
- A representative of the public agency (who has certain specific knowledge and qualifications);
- An individual who can interpret the instructional implications of evaluation results and who may also be one of the other listed members;
- At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- Whenever appropriate, the child with a disability. In accordance with 34 CFR 300.321(a)(7), the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under 34 CFR 300.320(b).

[34 CFR 300.321(a) and (b)(1)] [20 U.S.C. 1414(d)(1)(B)]

¹ Topics in this series include: Alignment With the *No Child Left Behind Act*; Changes in Initial Evaluation and Reevaluation; Children Enrolled by Their Parents in Private Schools; Discipline; Disproportionality and Overidentification; Early Intervening Services; Highly Qualified Teachers; Identification of Specific Learning Disabilities; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Individualized Education Program (IEP); Local Funding; National Instructional Materials Accessibility Standard (NIMAS); Part C Amendments in *IDEA 2004*; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice and Consent; Procedural Safeguards: Mediation; Procedural Safeguards: Resolution Meetings and Due Process Hearings; Secondary Transition; State Complaint Procedures; State Funding; and Statewide and Districtwide Assessments. Documents are available on the IDEA website at: <http://IDEA.ed.gov>.

2. Identifies instances when an IEP Team member may not need to attend.

A member of the IEP Team described in 34 CFR 300.321(a)(2) through (a)(5) is not required to attend an IEP Team meeting, in whole or in part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

A member of the IEP Team described in 34 CFR 300.321(a)(2) through (a)(5) may be excused from attending an IEP Team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if:

- The parent, in writing, and the public agency consent to the excusal; and
- The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

[34 CFR 300.321(e)] [20 U.S.C. 1414(d)(1)(C)]

3. Provides for inviting representatives from the Part C system.

In the case of a child who was previously served under Part C of the IDEA, an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representatives of the Part C system to assist with the smooth transition of services.

[34 CFR 300.321(f)] [20 U.S.C. 1414(d)(1)(D)]

4. Requires that the notice inform parents of other IEP Team participants.

The notice required under 34 CFR 300.322(a)(1) (regarding an IEP meeting), among other things, must inform the parents of the provisions in 34 CFR 300.321(a)(6) and (c) (relating to the participation of other individuals on the IEP Team who have knowledge or special expertise about the child), and 34 CFR 300.321(f) (relating to the participation of the Part C service coordinator or other representatives of the Part C system at the initial IEP Team meeting for a child previously served under Part C of the IDEA).

[34 CFR 300.322(b)(1)]

5. Revises requirements for when transition content must be included in an IEP meeting notice.

For a child with a disability beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, the notice required under 34 CFR 300.322(a)(1) (regarding an IEP meeting), among other things, must:

- Indicate that a purpose of the meeting will be the consideration of the postsecondary goals and transition services for the child, in accordance with 34 CFR 300.320(b) and that the agency will invite the student; and
- Identify any other agency that will be invited to send a representative.

[34 CFR 300.322(b)(2)]

6. Sets forth provisions regarding consideration of IFSPs for children aged three through five.

In the case of a child with a disability aged three through five (or, at the discretion of the State educational agency (SEA), a two-year-old child with a disability who will turn age three during the school year), the IEP Team must consider an IFSP that contains the IFSP content (including the natural environments statement) described in section 636(d) of the IDEA and its implementing regulations (including an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under 34 CFR 300.323 who are at least three years of age), and that is developed in accordance with the IEP procedures under Part B.

The IFSP may serve as the IEP of the child, if using the IFSP as the IEP is consistent with State policy and agreed to by the agency and the child's parents.

In implementing these IFSP provisions, the public agency must provide to the child's parents, a detailed explanation of the differences between an IFSP and an IEP. If the parents choose an IFSP, the public agency must obtain written informed consent from the parents.

[34 CFR 300.323(b)] [20 U.S.C. 1414(d)(2)(B)]

7. Requires that the IEP be accessible to teachers and others responsible for its implementation.

Each public agency must ensure that:

- The child's IEP is accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for its implementation; and
- Each teacher and provider described in this provision, is informed of his or her specific responsibilities related to implementing the child's IEP and the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

[34 CFR 300.323(d)]

8. Addresses the IEP for a student who transfers to a different school district in the State.

If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide a free appropriate public education (FAPE) to the child (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency either adopts the child's IEP from the previous public agency, or develops, adopts, and implements a new IEP that meets the applicable requirements in 34 CFR 300.320 through 300.324.

[34 CFR 300.323(e)] [20 U.S.C. 1414(d)(2)(C)(i)(I)]

9. Addresses the IEP for a student who transfers from another State.

If a child with a disability (who had an IEP that was in effect in a previous public agency in another State) transfers to a public agency in a new State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency), until the new public agency conducts an evaluation pursuant to 34 CFR 300.304 through 300.306 (if determined to be necessary by the new public agency) and develops, adopts, and implements a new IEP, if appropriate, that meets the applicable requirements in 34 CFR 300.320 through 300.324.

[34 CFR 300.323(f)] [20 U.S.C. 1414(d)(2)(C)(i)(II)]

10. Addresses transmittal of records for students who transfer.

To facilitate the transition for a child described in 34 CFR 300.323(e) and (f) (who transfers within the State or from another State), the new public agency in which the child enrolls must take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous public agency in which the child was enrolled, pursuant to 34 CFR 99.31(a)(2) (Family Education Rights and Privacy Act (FERPA)) and the previous public agency in which the child was enrolled must take reasonable steps to promptly respond to the request from the new public agency.

[34 CFR 300.323(g)] [20 U.S.C. 1414(d)(2)(C)(ii)]

11. Adds a new provision for amending the IEP without another meeting.

In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public agency may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP.

If changes are made to the child's IEP in accordance with 34 CFR 300.324(a)(4)(i), the public agency must ensure that the child's IEP Team is informed of those changes.

[34 CFR 300.324(a)(4)] [20 U.S.C. 1414(d)(3)(D)]

Changes to the IEP may be made either by the entire IEP Team at an IEP Team meeting, or as provided in 34 CFR 300.324(a)(4), by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

[34 CFR 300.324(a)(6)] [20 U.S.C. 1414(d)(3)(F)]

12. Encourages consolidation of IEP meetings.

To the extent possible, the public agency must encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

[34 CFR 300.324(a)(5)] [20 U.S.C. 1414(d)(3)(E)]

13. Provides for the review and, as appropriate, revision of the IEP.

Each public agency must ensure that, the IEP Team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved and revises the IEP, as appropriate, to address:

- Any lack of expected progress toward the annual goals and in the general education curriculum, if appropriate;
- The results of any reevaluation;
- Information about the child provided to, or by, the parents, as described under 34 CFR 300.305(a)(2) (related to evaluations and reevaluations);

- The child's anticipated needs; or
- Other matters.

In conducting a review of the child's IEP, the IEP Team must consider the special factors described in 34 CFR 300.324(a)(2) (development of the IEP).

A regular education teacher of the child, as a member of the IEP Team, must, consistent with 34 CFR 300.324(a)(3) (participation of regular teacher in development of the IEP), participate in the review and revision of the IEP of the child.

[34 CFR 300.324(b)] [20 U.S.C. 1414(d)(4)]

14. Authorizes alternative means of meeting participation.

When conducting IEP Team meetings and placement meetings pursuant to subparts D and E of Part 300, and carrying out administrative matters under section 615 of the IDEA (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

[34 CFR 300.328] [20 U.S.C. 1414(f)]